

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DASHAUN WRIGHT,

Plaintiff,

v.

RENEE BAKER, et al.,

Defendants.

Case No. 3:15-cv-00219-MMD-VPC

SCREENING ORDER

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections (“NDOC”), has submitted an amended civil rights complaint pursuant to 42 U.S.C. § 1983 and has filed an application to proceed *in forma pauperis* and several motions. (ECF Nos. 18, 1, 15, 20, 21, 26, 27, 28, 29, 31, 35, 36, 38, 39.) The Court now screens Plaintiff’s civil rights complaint pursuant to 28 U.S.C. § 1915A.

I. SCREENING STANDARD

Federal courts must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1),(2). *Pro se* pleadings, however, must be liberally construed. *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) the violation of a right secured by the Constitution or laws of the

1 United States, and (2) that the alleged violation was committed by a person acting
2 under color of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988).

3 In addition to the screening requirements under § 1915A, pursuant to the Prison
4 Litigation Reform Act (PLRA), a federal court must dismiss a prisoner's claim, if "the
5 allegation of poverty is untrue," or if the action "is frivolous or malicious, fails to state a
6 claim on which relief may be granted, or seeks monetary relief against a defendant who
7 is immune from such relief." 28 U.S.C. § 1915(e)(2). Dismissal of a complaint for failure
8 to state a claim upon which relief can be granted is provided for in Federal Rule of Civil
9 Procedure 12(b)(6), and the court applies the same standard under § 1915 when
10 reviewing the adequacy of a complaint or an amended complaint. When a court
11 dismisses a complaint under § 1915(e), the plaintiff should be given leave to amend the
12 complaint with directions as to curing its deficiencies, unless it is clear from the face of
13 the complaint that the deficiencies could not be cured by amendment. See *Cato v.*
14 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

15 Review under Rule 12(b)(6) is essentially a ruling on a question of law. See
16 *Chappel v. Lab. Corp. of America*, 232 F.3d 719, 723 (9th Cir. 2000). Dismissal for
17 failure to state a claim is proper only if it is clear that the plaintiff cannot prove any set of
18 facts in support of the claim that would entitle him or her to relief. See *Morley v. Walker*,
19 175 F.3d 756, 759 (9th Cir. 1999). In making this determination, the court takes as true
20 all allegations of material fact stated in the complaint, and the court construes them in
21 the light most favorable to the plaintiff. See *Warshaw v. Xoma Corp.*, 74 F.3d 955, 957
22 (9th Cir. 1996). Allegations of a *pro se* complainant are held to less stringent standards
23 than formal pleadings drafted by lawyers. See *Hughes v. Rowe*, 449 U.S. 5, 9 (1980).
24 While the standard under Rule 12(b)(6) does not require detailed factual allegations, a
25 plaintiff must provide more than mere labels and conclusions. *Bell Atlantic Corp. v.*
26 *Twombly*, 550 U.S. 544, 555 (2007). A formulaic recitation of the elements of a cause
27 of action is insufficient. *Id.*

28 ///

1 Additionally, a reviewing court should “begin by identifying pleadings [allegations]
 2 that, because they are no more than mere conclusions, are not entitled to the
 3 assumption of truth.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). “While legal
 4 conclusions can provide the framework of a complaint, they must be supported with
 5 factual allegations.” *Id.* “When there are well-pleaded factual allegations, a court should
 6 assume their veracity and then determine whether they plausibly give rise to an
 7 entitlement to relief.” *Id.* “Determining whether a complaint states a plausible claim for
 8 relief . . . [is] a context-specific task that requires the reviewing court to draw on its
 9 judicial experience and common sense.” *Id.*

10 Finally, all or part of a complaint filed by a prisoner may therefore be dismissed
 11 *sua sponte* if the prisoner’s claims lack an arguable basis either in law or in fact. This
 12 includes claims based on legal conclusions that are untenable (e.g., claims against
 13 defendants who are immune from suit or claims of infringement of a legal interest which
 14 clearly does not exist), as well as claims based on fanciful factual allegations (e.g.,
 15 fantastic or delusional scenarios). See *Neitzke v. Williams*, 490 U.S. 319, 327-28
 16 (1989); see also *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

17 **II. SCREENING OF COMPLAINT**

18 On October 7, 2015, the Court issued a screening order on Plaintiff’s complaint.
 19 (ECF No. 6.) The Court found that the Plaintiff’s allegations, which centered around a
 20 conspiracy to exploit Plaintiff by brainwashing him and using other torture tactics, were
 21 fanciful and frivolous. (See *id.* at 4.) The Court dismissed these allegations, without
 22 leave to amend. (*Id.* at 5.) The Court allowed Plaintiff leave to amend on his Fourteenth
 23 Amendment access to courts and due process in disciplinary hearings claims. (*Id.* at 5-
 24 7.)

25 Plaintiff has now filed an amended complaint. (ECF No. 18.) Once again,
 26 Plaintiff’s amended complaint focuses on a “conspiracy” between the states of
 27 Massachusetts and Nevada involving taking Plaintiff’s money and stealing his identity

28 **///**

1 through “food and medication servings, manipulated with brainwash and reverse
2 psychology tactics.” (*Id.* at 8.)

3 Plaintiff has not alleged any facts to further support his Fourteenth Amendment
4 claims that the Court allowed him leave to amend on. (ECF No. 6 at 5-7.) While he
5 continues to allege that the grievance proceedings have been sabotaged and
6 obstructed, there are no facts alleged in support of such statements. Instead, Plaintiff’s
7 entire amended complaint contains fanciful, and nearly incomprehensible, allegations,
8 such as: “The entire cert, psyche, medical, administration, education, and maintenance
9 departments and countless correctional officers are guilty for their involvement in the
10 ‘scheme operation’ that employs ‘sadistic systems’ including ill treatment, acting
11 negligent and indifference towards injustices caused by them, alienation, the deprivation
12 of one own funds, invasion of privacy by placing unfriendly inmates in my business,
13 denying me equal protection of the law and due process, while subjecting me to three
14 assaults, slavery and involuntary servitude, rigging and auctioning everything I do with
15 an underlined meaning or consent to their ‘sadistic systems’ include the mere receipt of
16 items and necessities (this includes food, mail, soap, toilet paper, etc.) taking a shower,
17 signing grievances addressing the injustices or the signing of any document,
18 manipulated with brainwash, reverse psychology, and identity theft tactics.” (ECF No. 18
19 at 11.)

20 Plaintiff’s entire complaint is frivolous because it lacks an arguable basis in law
21 and fact. The Court must dismiss, *sua sponte*, frivolous claims that are based on fanciful
22 allegations (e.g., fanciful or delusional scenarios). See *Neitzke v. Williams*, 490 U.S.
23 319, 327-28 (1989); see also *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

24 Because Plaintiff’s amended complaint is frivolous and the defects cannot be
25 cured by amendment, the Court dismisses this action with prejudice.

26 **III. PENDING MOTIONS**

27 Plaintiff has filed numerous motions. Plaintiff’s motion to amend his complaint
28 and notice of receipt of amended complaint (ECF Nos. 15, 20) are denied as moot. The

1 Court received Plaintiff's amended complaint (ECF No. 18) and has now screened it.
2 The Court will grant Plaintiff's motion for copy of his first amended complaint (ECF No.
3 26).

4 Plaintiff has filed numerous motions to "add conspirators" to his case and "for
5 extended exhibits" to be considered (ECF Nos. 28, 29, 35, 36). The allegations in these
6 motions relate to the Defendants' continued activity in the "scheme operation" that is
7 addressed in Plaintiff's amended complaint. The Court denies these motions as
8 frivolous, for the same reasons discussed above regarding Plaintiff's amended
9 complaint.

10 Plaintiff has also filed several motions requesting that sanctions be imposed
11 (ECF Nos. 27, 36, 38, 39). Plaintiff's request for sanctions is also based on allegations
12 of the Defendants' continued activity in the "scheme operation that is manipulated with
13 incomprehensible tactics." (ECF Nos. 39). Again, the Court finds the allegations in
14 these motions to be frivolous and Plaintiff's requests for sanctions are denied.

15 **IV. CONCLUSION**

16 For the foregoing reasons, it is ordered that Plaintiff's application to proceed *in*
17 *forma pauperis* (ECF No. 1) is denied as moot.

18 It is further ordered that Plaintiff's amended complaint (ECF No. 18) is dismissed
19 in its entirety, with prejudice, for failure to state a claim and as frivolous.

20 It is further ordered that Plaintiff's motion to amend his complaint (ECF No. 15)
21 and notice of recipe of amended complaint (ECF NO. 18) are denied as moot.

22 It is further ordered that Plaintiff's motion for copy of his first amended complaint
23 (ECF No. 26) is granted. The Clerk of the Court will send Plaintiff a copy of his first
24 amended complaint (ECF No. 18).

25 It is further ordered that Plaintiff's motion for audio/video evidence to be
26 preserved (ECF No. 21) is denied.


27 It is further ordered that plaintiff's motions to add conspirators and for extended
28 exhibits to be considered (ECF Nos. 28, 29, 35, 36) are denied as frivolous.

1 It is further ordered that Plaintiff's motions for sanctions (ECF Nos. 27, 36, 38,
2 39) are denied as frivolous.

3 It is further ordered that the Clerk of Court shall enter judgment accordingly.

4 It is further ordered that this Court certifies that any *in forma pauperis* appeal
5 from this order would not be taken "in good faith" pursuant to 28 U.S.C. § 1915(a)(3).

6 DATED THIS 13th day of May 2016.

7 
8 _____
9 MIRANDA M. DU
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28